

ESTTA Tracking number: **ESTTA699766**

Filing date: **10/01/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Buddhi Belly Ltd.		
Entity	Limited Company	Citizenship	Thailand
Address	345 Grove Street, 2nd Floor c/o Oliner Law San Francisco, CA 94102 UNITED STATES		

Attorney information	Elizabeth Oliner Oliner Law 345 Grove Street 2nd Floor San Francisco, CA 94102 UNITED STATES liz@olinerlaw.com, shawn@olinerlaw.com Phone:650-549-5298
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Registration Subject to Cancellation

Registration No	3009284	Registration date	10/25/2005
Registrant	Belly Management 7475 Beverly Blvd Los Angeles, CA 90036 UNITED STATES		

Goods/Services Subject to Cancellation

Class 042. First Use: 2001/12/01 First Use In Commerce: 2002/12/01 All goods and services in the class are cancelled, namely: Restaurant services
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	BUDDHI BELLY tm cancellation-2.pdf(99191 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/elizabetholiner/
Name	Elizabeth Oliner
Date	10/01/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

BUDDHI BELLY LTD.,
A Limited Company

PETITIONER,

And

Belly Management,
An Individual

REGISTRANT.

In the matter of Registration No.
3009284

For the Mark BUDDHA'S BELLY

Registered on October 25, 2005

Cancellation No.

PETITION TO CANCEL

Petitioner, Buddhi Belly Ltd., a Limited Company in Thailand (hereinafter "Petitioner"), believes that it will be damaged by the continued registration of the Mark BUDDHA'S BELLY (hereinafter "Mark") shown in U.S. Registration No. 3009284 (hereinafter "Registration"), registered on October 25, 2005 by Belly Management, an individual, (hereinafter "Registrant"). Petitioner hereby petitions to cancel the Registration pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064. The grounds for the cancellation of the Registration are as follows:

INTRODUCTION

1. The Petitioner's Mark BUDDHI BELLY is seeking registration under International Class 043 for "Frozen yogurt shop services in the nature of a restaurant; Restaurant and café services; Restaurant services featuring frozen yogurt, smoothies, shaved ice and frozen desserts."

2. The Petitioner received trademark registration for the Mark in Thailand on May 18, 2006. The Mark's Foreign Registration No. is 0105549061278.
3. The Registrant's Mark, BUDDHA'S BELLY, was registered on the Principal Register on October 25, 2005 under International Class 042 for "Restaurant services."

REGISTRANT'S MARK HAS BEEN ABANDONED

4. The Petitioner asks the Trademark Trial and Appeals Board to cancel the Registrant's registration of the Mark based on the Registrant's abandonment of the registered Mark, BUDDHA'S BELLY.
5. The Registrant is no longer using its registered Mark in commerce. According to the BUDDHA'S BELLY Yelp page, the restaurant has closed down its location at 7475 Beverly Blvd Los Angeles, CA 90036. The Registrant listed this location as the contact address with the USPTO.
6. The last review for the restaurant on its Yelp page was on May 15, 2014, which implies that the restaurant has been closed for a year if not longer. *Please see <http://www.yelp.com/biz/buddhas-belly-los-angeles>.*
7. Moreover, the Registrant has been advertising and operating its restaurant under a different name, THE INDEPENDENCE. The website link provided on the BUDDHA'S BELLY Yelp page leads to THE INDEPENDENCE restaurant's site, which is now located at 205 Broadway, Santa Monica, CA 90401. *Please see www.bbfood.com/.*
8. The Registrant's website address for BUDDHA'S BELLY, www.bbfood.com/, automatically redirects customers to the Registrant's new restaurant site, <http://www.independencetavern.com/>, further affirming that the Registrant has in fact

changed its restaurant name. This proves that the Registrant no longer has the intent to use its registered Mark BUDDHA'S BELLY.

CONCLUSION

9. The Petitioner has shown through evidence submitted that the Registrant is no longer using its registered Mark, BUDDHA'S BELLY, and has adopted a new name for its restaurant, THE INDEPENDENCE.
10. The Registrant closed down its BUDDHA'S BELLY restaurant sometime in mid-2014 and is now operating a new restaurant at a completely different location under a new name.
11. The Registrant's actions clearly show that s/he has no intention of resuming its restaurant business under the registered Mark.
12. Continued registration of the Registrant's Mark will cause great harm to the Petitioner who is trying to obtain registration for its mark BUDDHI BELLY. The Petitioner has been issued an Office Action citing the Registrant's Mark for Likelihood of Confusion. Continued registration of this abandoned mark prevents the Petitioner from expanding its business to the U.S. especially since there would be absolutely no likelihood of confusion with the Registrant's mark since its BUDDHA BELLY'S restaurant no longer exists.
13. Therefore, the Petitioner hereby requests the Trademark Trial and Appeals Board to cancel the Registrant's registration of the Mark based on overwhelming evidence that the Registrant has abandoned the Mark.

By: _____

Date: _____

Liz Oliner
Attorney at Law for Petitioner
345 Grove Street, 2nd Floor
San Francisco, CA 94102

CERTIFICATE OF SERVICE/MAILING

I hereby certify that a true and complete copy of the foregoing Petition for Cancellation has been served on Registrant's attorney of record by sending said copy by certified mail on October 1, 2015 to:

Belly Management
7475 Beverly Boulevard
Los Angeles, California 90036

and

Zacky P. Rozio
Fadlon & Rozio
9437 South Santa Monica Boulevard, Suite 202
Beverly Hills, California 90210
(*with a courtesy copy by fax to 310-205-9392*)

/Elizabeth Oliner/
Elizabeth Oliner